



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Carolina Parachute Corporation

File: B-226504.2

Date: July 24, 1987

DIGEST

1. Protest against acceptance of low bid is academic where the low bid has expired and the bidder has refused to extend the acceptance period.
2. Protest challenging the contracting agency's determination that the protester is nonresponsible is dismissed as premature since the agency has not made a final determination of the protester's responsibility. In any event, since the protester is a small business concern the Small Business Administration has conclusive authority to determine the protester's responsibility.

DECISION

Carolina Parachute Corporation protests any award of a contract to the low bidder under Department of the Army invitation for bids (IFB) No. DAAK01-87-B-A006. Carolina also protests that the Army improperly found that Carolina is a nonresponsible firm.

We dismiss the protest.

The IFB was issued as a small business set-aside to obtain cargo parachutes. After the low bidder was eliminated from the competition because it was a large business concern, Triangle Parachute Division, Lockley Manufacturing Company (Triangle), became the low bidder, with Carolina second low. On May 29, Carolina protested to our Office that the Army improperly was holding price negotiations with Triangle and improperly had determined that Triangle was a responsible business. Carolina also protested that the Army improperly had determined that Carolina was nonresponsible.

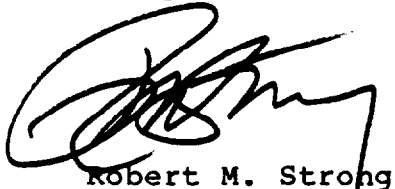
In response to Carolina's protest, the Army reports that Triangle's bid has expired and Triangle has refused to extend the acceptance period for the bid. Since Triangle therefore no longer is eligible to receive the contract

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award, Carolina's protest of award to that firm is academic, and will not be considered on the merits. See Harvard Interiors Mfg. Co., B-222448.5, Oct. 30, 1986, 86-2 C.P.D. ¶ 495.

Concerning Carolina's protest that the Army improperly determined that Carolina is a nonresponsible firm, the Army reports that although the preaward survey recommended no award to Carolina, the contracting officer did not complete the responsibility determination because Carolina was not in line for award. Since Carolina has become the low bidder, the Army currently is completing the determination, but has not reached a final conclusion. Carolina's protest on this basis therefore is premature. See Telex Communications, Inc., B-222760, June 25, 1986, 86-2 C.P.D. ¶ 8. In any event, if the Army determines that Carolina is nonresponsible, the Army is required to submit the nonresponsibility determination to the Small Business Administration, which has conclusive authority to determine the responsibility of small business concerns. See 15 U.S.C. § 637(b)(7) (1982); Vantage Foods, Inc., B-224179, Sept. 25, 1986, 86-2 C.P.D. ¶ 353.

The protest is dismissed.



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